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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN JOSE DIVISION**  
6

7 FINJAN, INC.,  
8 Plaintiff,

9 v.

10 BLUE COAT SYSTEMS, LLC,  
11 Defendant.

Case No. 15-cv-03295-BLF

**OMNIBUS ORDER RE: SEALING  
MOTIONS**

[Re: ECF 350, 360]

12  
13 Before the Court are two administrative motions to file under seal, one from Plaintiff  
14 Finjan, Inc. (“Finjan”) and one from Defendant Blue Coat Systems, LLC (“Blue Coat”). ECF  
15 350, 360. Both relate to parties’ supplemental briefing on copying. *See id.* For the reasons set  
16 forth below, Finjan’s motion at ECF 350 is GRANTED IN PART and DENIED IN PART and  
17 Blue Coat’s motion at ECF 360 is DENIED without prejudice.

18 **I. LEGAL STANDARD**

19 “Historically, courts have recognized a ‘general right to inspect and copy public records  
20 and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. of*  
21 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435  
22 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are  
23 “more than tangentially related to the merits of a case” may be sealed only upon a showing of  
24 “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
25 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed  
26 upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this  
27 district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).  
28 A party moving to seal a document in whole or in part must file a declaration establishing that the

identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

## II. DISCUSSION

The Court has reviewed the parties’ sealing motions and the declarations submitted in support thereof. The Court finds that the parties have articulated compelling reasons and good cause to seal certain portions of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

### A. ECF 350

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
350-4	Finjan’s Supplemental Brief on Copying	GRANTED as to p. 1 ll. 15-27 and p. 2 ll. 1-8; DENIED as to the remainder.	Contains highly confidential information relating to confidential aspects of Blue Coat’s business. Declaration of Michael Guo in Support of Finjan’s Administrative Motion to File Under Seal, ECF 356 (“Guo Finjan Sealing Decl.”) ¶ 5. The remainder is denied because Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. <i>Id.</i> ; Declaration of James Hannah in Support of Finjan’s Administrative Motion to File Under Seal, ECF 350-1 (“Hannah Decl.”) ¶ 4.
350-6	Declaration of Kristopher Kastens in support of Finjan’s Supplemental Brief on Copying, ECF 350-6 (“Kastens Decl.”)	DENIED.	Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. Guo Finjan Sealing Decl. ¶ 6; Hannah Decl. ¶ 5.
350-8	Ex. 2 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 7.
350-10	Ex. 3 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 8.

1	350-11	Ex. 4 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 9.
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3	350-13	Ex. 5 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 10.
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5	350-15	Ex. 6 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 11.
6				
7	350-17	Ex. 7 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 12.
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9				
10	350-19	Ex. 8 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 13.
11				
12	350-21	Ex. 9 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to Blue Coat's products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 14.
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14	350-23	Ex. 10 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to Blue Coat's products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 15.
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16	350-25	Ex. 11 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 16.
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18	350-27	Ex. 12 to Kastens Decl.	DENIED.	Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. Guo Finjan Sealing Decl. ¶ 17; Hannah Decl. ¶ 6.
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20	350-29	Ex. 13 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to the accused products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 18.
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**B. ECF 360**

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
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360-4	Blue Coat's Supplemental Brief	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Declaration of Michael Guo in Support of Blue Coat's Administrative Motion to File Under Seal, ECF 356 ("Guo Blue Coat Sealing Decl.") ¶ 5.
360-5	Ex. 6 to Declaration of Michael Guo in Support of Blue Coat's Supplemental Brief, ECF 362 ("Guo Decl.")	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 6.
360-6	Ex. 7 to Guo Decl.	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 7.
360-7	Ex. 8 to Guo Decl.	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 8.

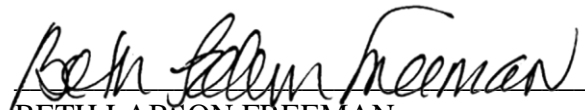
### III. ORDER

For the reasons set forth above, Finjan's motion at ECF 350 is GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

Blue Coat's motion at ECF 360 is DENIED without prejudice. Upon reviewing the submitted documents, the Court suspects that Finjan's failure to submit a declaration in support of sealing may have been inadvertent. If any portions of these documents require sealing, Finjan shall submit a declaration no later than 4 days from the filing of this order. If no such declaration is submitted, Blue Coat's motion will be DENIED with prejudice.

**IT IS SO ORDERED.**

Dated: October 24, 2017

  
BETH LABSON FREEMAN  
United States District Judge